



**STATE OF HAWAII**  
**DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**  
830 PUNCHBOWL STREET  
HONOLULU, HAWAII 96813

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**INFORMATION SHEET**

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**ACT 44**  
**AMENDMENTS TO HAWAII FAMILY LEAVE LAW**

**Summary of Act 44**

Effective July 1, 2003, Chapter 398, Hawaii Revised Statutes, Hawaii Family Leave Law (HFLL), was amended by Act 44 to require that employers who provide sick leave must permit employees to use their accrued and available sick leave for family leave purposes, such as for the birth or adoption of an employee's child, or to care for a child, parent, spouse, or reciprocal beneficiary with a serious health condition.

Act 44 applies to:

- Employers, including the State and counties, who provide paid sick leave and who have 100 or more employees;
- Employees with at least six consecutive months of service.

The use of paid sick leave for family leave purposes is limited to ten days per year, unless a collective bargaining agreement provides for the use of more than ten days of paid sick leave for family leave purposes. The use of paid sick leave for family leave purposes is no longer contingent on mutual agreement between the employer and the employee. An employer may require written certification from a health care provider to support an employee's request for family leave.

**Family Leave Entitlement**

- An employee is entitled to a total of four weeks of family leave during any calendar year for the birth or adoption of a child of the employee, or to care for the employee's child, spouse, reciprocal beneficiary, or parent with a serious health condition.
- An employee may use no more than a total of four weeks of leave in any twelve-month period. The use of family leave expires twelve months after the birth, adoption, or commencement of care for a child, spouse, parent, or reciprocal beneficiary with a serious health condition.
- During each calendar year, the leave may be taken intermittently.
- Unused leave cannot be accumulated.
- There is no limitation for spouses employed by the same employer. Each would be separately entitled to four weeks of family leave under the Hawaii law.

### **Use of Sick Leave Under Act 44**

- Employers who provide paid sick leave benefits for employees must permit employees to use their accrued and available sick leave for family leave purposes. An employee may use up to ten days per year, unless a collective bargaining agreement provides for the use of more than ten days of sick leave for family leave purposes.
- For purposes of Act 44, “sick leave” shall not include any benefit provided under an employee welfare benefit plan subject to the federal Employment Retirement Income Security Act of 1974 (ERISA), and shall not include any insurance benefit, workers' compensation benefit, unemployment compensation disability benefit, temporary disability insurance benefit, or benefit not payable from the employer.
- Act 44 does not require employers who do not provide sick leave to create a sick leave plan. Further, if an employer's plan does not provide paid sick leave to certain employees, such as on-call or part-time workers, the employer is not required to extend paid sick leave to those employees.
- An employer may not reduce an employee's accrued and available sick leave below the amount required under the Temporary Disability Insurance Law, Section 392-41, Hawaii Revised Statutes.

### **Substitution of Other Paid Leave**

- Family leave consists of unpaid leave, paid leave, or a combination of paid and unpaid leave. If an employer provides paid family leave for fewer than four weeks, the additional period of leave added to attain the four-week total may be unpaid.
- Except for the above requirements of Act 44 regarding the use of accrued and available sick leave for family leave, an employer or employee may elect to substitute any of the employee's other accrued paid leaves, such as vacation or personal leave, for any part of the four-week period.

### **Additional Information**

For more information, click on *Frequently Asked Questions* under **Act 44** on DLIR's web site.

The Hawaii Family Leave Law is administered by the Wage Standards Division of the Department of Labor & Industrial Relations (DLIR), phone (808) 586-8777.

The Temporary Disability Insurance Law is administered by the Disability Compensation Division, phone (808) 586-9188.